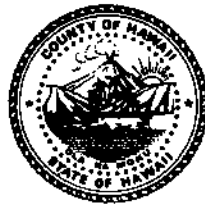


Harry Kim  
Mayor

Roy Takemoto  
Managing Director

West Hawai'i Office  
74-5044 Ane Keohokālole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



**County of Hawai'i**  
**PLANNING DEPARTMENT**

Michael Yee  
Director

April Surprenant  
Acting Deputy Director

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

September 8, 2020

Robyn Ito, P.E.  
SSFM International, Inc.  
99 Aupuni Street, Suite 202  
Hilo, Hawai'i 96720

Dear Ms. Ito:

**SUBJECT: Application: Variance - VAR 20-000588**  
**Applicant: ROBYN ITO, P.E. (SSFM INTERNATIONAL, INC.)**  
**Owner: HAWAI'I ELECTRIC COMPANY (HECO)**  
**Request: Variance from Chapter 25, Zoning, Article 5 Division 7**  
**Section 25-5-76 Minimum Yards, Article 4, Division 4,**  
**Section 25-4-44(a) Permitted Projections into Yards,**  
**Open Space Requirements and Section 25-4-43, Fences and**  
**Accessory Structures, (Encroachment into Front and Side**  
**Yard Setbacks)**  
**Tax Map Key: (3) 1-5-034:209 (Lot 75-A)**

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The Planning Director certifies the **approval** of Variance 20-000588 (VAR 20-000588), subject to conditions. The variance allows for the proposed chain link/barbed wire fence to be permitted on the property with a height of 9 feet with a minimum 8-foot front (Kea'au-Pāhoa Highway) yard setback in lieu of the required 30 feet front yard setback and the 24 feet front yard open space requirement. It will also allow for the proposed 9-foot high chain link/barbed wire fence with a minimum 4-foot side (southeast) yard setback and a minimum 11-foot side (southwest) yard setback in lieu of the required 20-foot side yard setback and 14-foot side yard open space requirement. The variance is from the subject property's minimum side (southeast) yard setback and front yard setback and side yard setback requirement pursuant to the Hawai'i County Code, Chapter 25 (Zoning), Article 5, Division 1, Section 25-5-76 minimum yards and Article 4, Division 4, Section 25-4-44 (a), Permitted projections into yards and open space requirements, and Section 25-4-43, Fences and accessory structures.

### **BACKGROUND AND FINDINGS**

1. **Location.** The subject property contains approximately 1.25 acres and is in the Hawaiian Paradise Park Subdivision, situated at Kea'au, Puna, Hawai'i. The subject property address is 15-1594 31<sup>st</sup> Avenue.
2. **County Zoning.** Agricultural – 1 acre (A-1a)
3. **State Land Use Designation.** Agricultural.
4. **Height Requirements. Section 25-4-43. Fences and accessory structures. (a):**  
A perimeter boundary fence, wall, or similar feature, six feet or less in height, shall be considered a structure and shall be permitted without any front, side, or rear yard requirements. In addition, a fence which is constructed of strand material, such as barbed wire, or chain link, which allows "see-through" visibility is permitted to height of eight feet without any front, side, or rear yard.
5. **Required Setback.** 30-foot fronts and 20-feet for sides.
6. **Variance Application.** The applicant/owner submitted the variance application, attachments, filing fee, and associated materials on June 9, 2020. The variance application's site plan, prepared by SSFM International, Inc., denotes the location and elevation of the proposed structures to be constructed onto the subject property. (See Exhibit A)
7. **County Building Records.** None – Vacant Land.
8. **Agency Comments and Requirements.**
  - a. The State Department of Health (DOH) memorandum dated August 4, 2020.  
(See attached memorandum – Exhibit B)
  - b. No Comments received from The Hawai'i County Public Works–Building Division.
9. **Public Notice.** The applicant filed a transmittal letter with copy of the notices sent to surrounding property owners via USPS. According to USPS certificate of mailing receipts and affixed postal receipts, the first and second notices were mailed on June 30, 2020, and July 9, 2020, respectively. Notice of this application was published in the Hawai'i Tribune Herald and West Hawai'i Today on July 10, 2020.
10. **Comments from Surrounding Property Owners or Public.** None.
11. **Time Extension.** The applicant's variance was received on June 9, 2020, additional time to review the application was required. The applicant granted the Planning Director an extension of time to issue a decision on the Variance application until September 9, 2020.

## **PROJECT DESCRIPTION**

The proposed project will upgrade the existing HECO substation to bring the fencing and grounding up to current standards, as well as upgrade the transformer equipment to account for increasing loads in the area.

## **GROUNDS FOR APPROVING VARIANCE**

### **Special and Unusual Circumstances**

*(a) There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of the property.*

### **The Variance application meets criterion (a) for the following reasons:**

The applicant submitted the variance application to allow for the installation of a chain link/barbed wire fence with a height of 9 feet with a minimum 8-foot front (Kea'au-Pāhoa Highway) yard setback, a minimum 4-foot side (southeast) yard setback and a minimum 11-foot side (southwest) yard setback.

The applicant has stated:

*"Electrical substations contain high voltage equipment. Therefore, it is important that public and employee safety be a critical factor when designing the fence location to ensure the substation is properly protected and secured from the outside.*

*The 9' height of the fence prevents the public from being able to enter the substation by presenting a barrier to climbing or unlawful entry. The location and layout of the fence provides maximum separation between the public and the electrical equipment to avoid unauthorized access, theft or tempering that may result in injury, death, or damage to the power grid. The fence layout also needs to account for a flat area on the outside perimeter of the fence required for electrical grounding to prevent electrical shock to persons on the exterior fence.*

*In order to maximize the substation properly, the areas surrounding the electrical equipment will need to allow for sufficient space for HECO operations. Service vehicles should be able to pull up adjacent to equipment for installation and maintenance purposes, including the space to open vehicle doors. Service vehicles also need to be able to turnaround and maneuver completely within the substation in order to avoid backing out of the substation onto the main thoroughfare upon exit."*

The applicant has also stated National Electrical Safety Code (NESC) Section 110 A.1 states that fences for supply stations shall have a minimum height of 7 feet overall (fabric + barbed wire).

However, HELCO/HECO prefers to err on the side of caution and be more restrictive than the NESC, especially when the safety of the public and/or personnel are involved.

Therefore, based on the information stated above, special, and unusual circumstances do exist on the subject property which would interfere with the overall functionality and safety of the existing electrical substation.

#### **Alternatives**

*(b) There are no other reasonable alternatives that would resolve the difficulty.*

#### **The Variance application meets criterion (b) for the following reasons:**

A no-action alternative or denial of this variance would maintain status quo and will prevent HECO from upgrading their substation to bring fencing and grounding equipment up to current standards, it will also prevent HECO from upgrading their transformer equipment and hinder their efforts to account for the increasing loads in the area.

There are no reasonable alternatives to resolve the height of the chain link/barb wire fence in relationship to the setback requirements.

#### **Intent and Purpose**

*(c) The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.*

#### **The Variance application meets criterion (c) for the following reasons:**

The intent and purpose of requiring structural setbacks within a building site are to assure that adequate air circulation and exposure to light are available between permitted structure(s)/uses and boundary/property lines.

In summary, the height and the placement of the proposed chain link/barb wire fence are designed to provide necessary separation between the public and electrical equipment to ensure the substation is properly protected and secured from the outside. The separation will also allow for personnel to operate equipment and maintenance vehicles for maintenance and high voltage work.

Based on the foregoing findings and unusual circumstances, the applicant's request for a variance would be consistent with the general purpose of the zoning district and the intents and purposes of the Zoning Code, Subdivision Code, and the County General Plan.

Robyn Ito, P.E  
SSFM International, Inc.  
September 8, 2020  
Page 5

Furthermore, the variance request will not be materially detrimental to the public's welfare and will not cause substantial adverse impact to the area's character and to adjoining properties.

### **PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS**

Based on the variance application's site plan, the proposed chain link/barbed wire fence to be constructed on the subject property (Lot-75-A) will not meet setback requirements pursuant to Hawai'i County Code, Chapter 25, Zoning.

This variance application is **approved** subject to the following variance conditions.

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), successors or assigns shall indemnify and hold the County of Hawai'i harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. The applicant/owner(s) shall apply for Plan Approval to the County of Hawai'i Planning Department for review. Plan Approval and other required entitlements shall be secured prior to submitting detailed building plans and specification for a County Building Permit.
4. Future or new building improvements and permitted uses shall be subject to State law and County Ordinances and Regulations pertaining to building construction and building occupancy.

Should any of the foregoing variance conditions not be complied with, the Planning Director may initiate proceedings to null and void Variance-20-000588.

Sincerely,



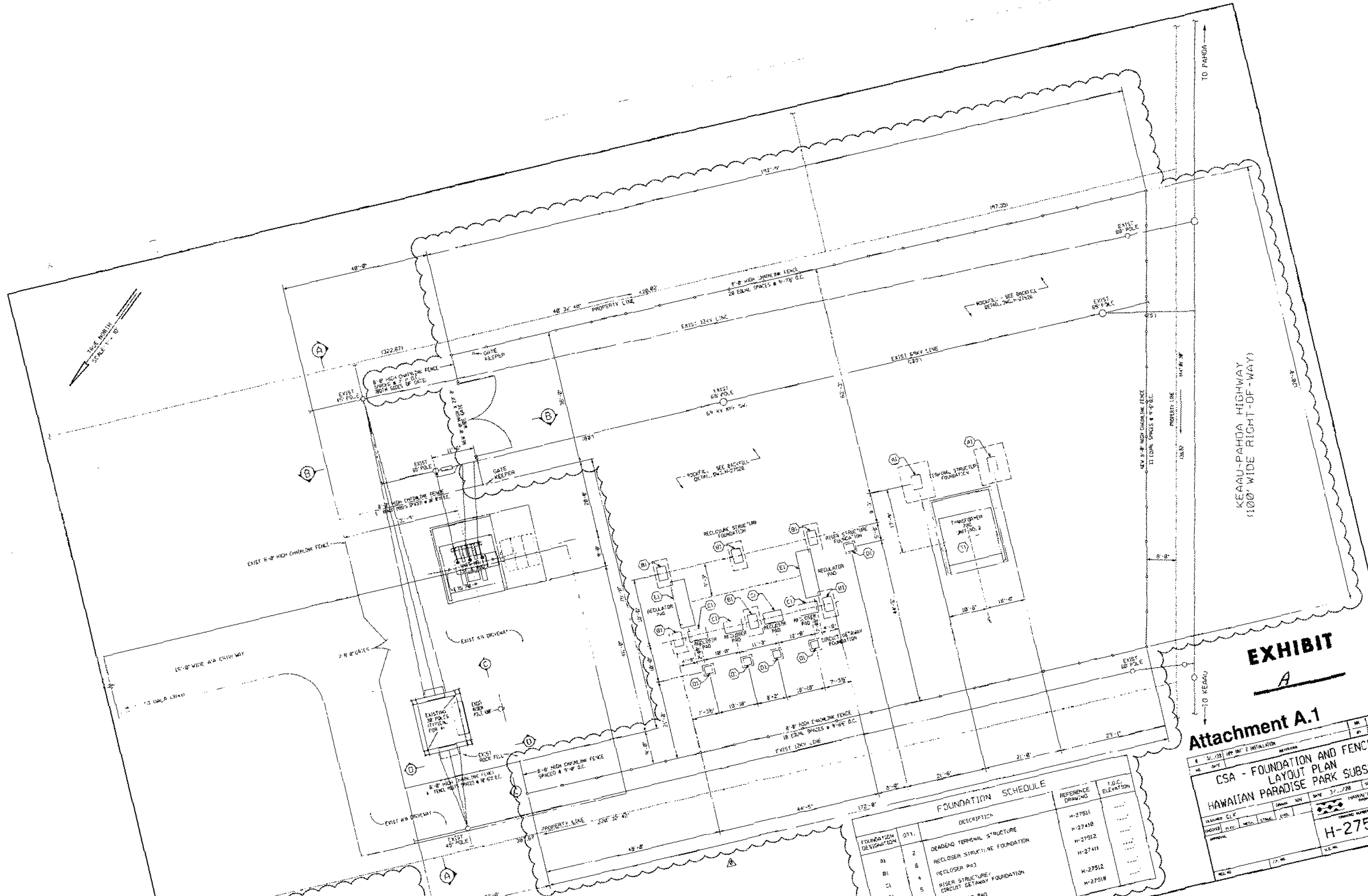
MICHAEL YEE  
Planning Director

LHN:jaa

P:\Admin Permits Division\Variances From CoH02\Zone1\VAR20-000588 TMK150342090000 Hawaii Electric Company.doc

xc: Real Property Tax Office (Hilo)  
Gilbert Bailado, GIS (via email)

SCALE 1" = 40'  
 1/4" = 10'



**EXHIBIT**  
**A**

**Attachment A.1**

FOUNDATION DESIGNATION	QTY.	DESCRIPTION	REFERENCE DRAWING	T.O.C. ELEVATION
DL	2	DEADEND TERMINAL STRUCTURE	H-27511	
RL	6	RECLOSE STRUCTURE FOUNDATION	H-27410	
CI	4	RECLOSE PAD	H-27411	
DI	5	RISER STRUCTURE/ CIRCUIT DETAWAY FOUNDATION	H-27512	
EL	2	REGULATOR PAD	H-27514	
TI	1	TRANSFORMER PAD UNIT 2		

**GENERAL NOTES:**

- ALL FOUNDATIONS AND PADS SHALL BE PLACED ON UNDISTURBED SOUND SOIL OR COMPACTED BACKFILL IN ACCORDANCE WITH THE CONSTRUCTION SPECIFICATIONS.
- ALL ANCHOR BOLTS AND EMBEDDED ITEMS SHALL BE HOT DIP GALVANIZED AFTER FABRICATION. ANCHOR BOLTS FOR COLLARS AND EQUIPMENTS SHALL BE PLACED BY THE TEMPLATE. FOR ANCHOR BOLT DETAILS REFER TO FOUNDATION DRAWINGS.
- ALL REINFORCEMENT FOR FOUNDATIONS SHALL CONFORM TO ASTM A615 GRADE 60.
- THE COMPRESSIVE STRENGTH OF CONCRETE SHALL BE 3000 PSI IN 28 DAYS OR OTHERWISE SPECIFIED.
- FOR DIMER STEEL AND REINFORCED CONCRETE, REFER TO HECO CONCRETE SPECIFICATION CS3321-1.
- CONCRETE FOUNDATION ELEVATION SHALL BE 6" ABOVE FINISHED GRADE DET AT TRANSFORMER PAD. ANY DISTURBANCES SHALL BE BROUGHT TO THE ATTENTION OF THE HELCO ENGINEER.
- CSA CONTRACTOR SHALL NOTIFY THE HELCO INSPECTOR AT 806-8286 FOR FOUNDATION INSPECTION PRIOR TO CONCRETE POUR.
- FOR CHANNEL FENCE DETAILS, REFER TO DRAWING H-12886 AND H-27522.

**PLAN**  
 SCALE 1" = 40'

DATE: 3/1/2011  
 PROJECT: HAWAIIAN PARADISE PARK SUBSTATION  
 DRAWING NO: H-27520  
 SHEET NO: 0  
 SCALE: AS NOTED  
 DESIGNED BY: [Signature]  
 CHECKED BY: [Signature]  
 DATE: 3/1/2011  
 PROJECT: HAWAIIAN PARADISE PARK SUBSTATION  
 DRAWING NO: H-27520  
 SHEET NO: 0  
 SCALE: AS NOTED  
 DESIGNED BY: [Signature]  
 CHECKED BY: [Signature]  
 DATE: 3/1/2011

DAVID Y. IGE  
GOVERNOR OF HAWAII



BRUCE S. ANDERSON PhD.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. BOX 916  
HILO, HAWAII 96721-0916


COH PLANNING DEPT  
AUG 6 2020 AM 10:29

REC'D HAND DELIVERED

MEMORANDUM

DATE: August 4, 2020

TO: Mr. Michael Yee  
Planning Director, County of Hawaii

FROM: Eric Honda   
District Environmental Health Program Chief

SUBJECT: Application: Variance VAR 20-000588  
Applicants: ROBYN ITO, P.E. (SSFM INTERNATIONAL, INC.)  
Owners: HAWAII ELECTRIC COMPANY (HECO)  
Request: Variance from Chapter 25, Zoning, Section 25-4-43, Fences  
And accessory structures, Article 4, Division 4, Section 25-4-44(a),  
Permitted Projections into Yard and Open Space Requirements  
(Encroachment into Front, Rear and Side Yard Setbacks)  
TMK: 1-5-034:209 (Lot 75-A)

The Health Department found no environmental health concerns with regulatory implications in the submittals.

**EXHIBIT**

**B**

135001